

West Virginia Ethics Commission



Public Employee Recognition and Retirement Guideline

The West Virginia Ethics Commission hereby finds that recognizing public employees and/or honoring the departure of dedicated public officials and employees serves the public purpose of promoting morale by acknowledging achievement. Subject to the limitations below, the expenditure of public funds for these purposes does not violate the Ethics Act's prohibition against the use of office for private gain. In addition, an employee being recognized or an employee or public official departing his/her public position due to retirement, transfer, resignation or completion of his/her term of office may accept gifts from co-workers and subordinates which are given voluntarily.

Who is a "public employee or official?"

The term "public employee" includes full-time and part-time public employees who serve in state, county or municipal government. "Public officials" are elected or appointed officials who serve in state, county or municipal government. The term "public official" also includes a public servant volunteer, which is "any person who, without compensation, performs services on behalf of a public official and who is granted or vested with powers, privileges, or authorities ordinarily reserved to public officials."

Solicitation of gifts/contributions

The following requirements apply to the solicitation of gifts and contributions from public employees and public officials for a recognition, departure or retirement gift or event:

- Any effort to collect contributions for a recognition or departure gift or event must be limited to asking for a maximum contribution of \$5 per person.
- The recipient may **never** participate in collecting donations for his or her recognition or departure gift or event.

- A public employee or official may **never** solicit a gift from which he or she may personally benefit.
- A public employee or official may **never** coerce a gift or contribution for a recognition or retirement gift.
- Supervisors may **never** solicit their subordinates for a contribution for a recognition or retirement gift for another person.
- Requests for contributions should be disseminated in a general announcement to all employees. Announcements should clearly convey that participation is voluntary and free of coercion and that employees may contribute less than the recommended amount or nothing at all. Reasonable reminders are permissible. Supervisors should not sign or distribute these requests to their subordinates.

Information about contributors

Information regarding the identity of contributors or the amounts they contributed may not be disclosed to anyone other than those who plan and coordinate the recognition or retirement event.

Solicitation and acceptance of gifts from certain entities

The Ethics Act prohibits public employees and public officials from soliciting and/or accepting gifts from:

- Lobbyists; or
- Any person whom the official or employee knows or has reason to know:
 - (A) Is doing or seeking to do business of any kind with his or her agency; or
 - (B) Is engaged in activities which are regulated or controlled by his or her agency; or
 - (C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

Public employees and public officials may not solicit these persons to contribute to a gift to recognize a public employee or for a departing public employee or public official. If one of these persons/entities wishes to make a voluntary contribution toward a gift, he/she/it may contribute no more than \$25. If a public agency receives "anonymous" gifts for which the donor cannot be identified, they should be rejected or donated to charity.

Events

Events recognizing a public employee, or the retirement or departure of a public employee or public official may include a gathering with food, beverages, entertainment and the presentation of a gift or memento of service to the public employee or official or his/her spouse and/or dependent(s). The responsibility for deciding whether public

funds should be expended for this purpose lies with the head of an agency, elected official or appointed board.

The Ethics Commission hereby finds that the expenditure of public funds for events recognizing employees or for departing employees or officials does not violate the Ethics Act if an agency expends no more than a total of \$25 per employee per fiscal year. This amount may be allocated between one or more events or activities. An agency may allocate more than \$25 to recognize one or more employees, in lieu of expending up to \$25 per employee per fiscal year, so long as the expenditure on any one employee does not exceed \$100 and the total amount expended for this purpose during the fiscal year does not exceed the sum of \$25 per employee.

- Recognition ceremonies may be conducted on government premises or at an off-site location. Public funds may not be used for rental or related fees associated with an event held off-site.
- Public employees and officials may contribute any amount for food, beverages and entertainment for the event.
- A person or entity with a matter before the departing public employee or official or his or her entity should be excluded from either participating in or planning for an event.
- Public employees and officials may plan an event, solicit contributions for a gift and/or meals, and prepare and send invitations to an event in accordance with this Guideline while on their public employer's time. Any such activities must be of limited duration and may not negatively impact the mission of the public agency.

Retirement Plaques and/or Commemorative Items

In addition to the expenditure of public funds authorized above, the head of an agency or governing body may authorize the use of public funds not to exceed \$100 to purchase a plaque or other commemorative item for a public employee or official who is retiring from public service. This does not establish or confer an employee benefit. The head of an agency or its governing body must determine whether any such expenditure is consistent with fiscal responsibility and whether to use appropriated funds for this purpose.

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